

Before The  
**Federal Communications Commission**  
Washington, D.C. 20554

In re Application of	)	
	)	
PAXSON SPOKANE LICENSE, INC.	)	FCC File No. BFRECT-20050210AWF
	)	
Station KGPX(TV)	)	MB Docket No. 03-15
Spokane, WA	)	
	)	
Digital Channel Election Form	)	
– First Round Election	)	
To: Chief, Video Division		
Media Bureau		

## Comment

Spokane School District #81, licensee of Non-Commercial Educational Television Station KSPS-TV, Spokane, Washington, pursuant to the *Public Notice*, DA 05-519, released March 1, 2005 (*Public Notice*), hereby submits this comment in connection with the above-captioned application of Paxson Spokane License, Inc. (“Paxson”), licensee of Television Station KGPX, Spokane, Washington.

In its Form 382, KGPX indicated it has a Negotiated Channel Arrangement (“NCA”) with KSPS-TV, along with 19 other television stations. KSPS-TV entered one NCA, and that was with KHQ, Incorporated, licensee of KHQ-TV, not Paxson. In fact, pages 5 and 6 of the Appendix to the *Public Notice* reflect that all stations in the purported NCA, except KGPX, KSPS-TV, and KHQ-TV, selected Option A in response to Section II, question 1, on their Forms 382. Option A does not involve a representation that the licensee entered an NCA. In contrast, Option B requires all stations that entered an NCA to list each other in Schedule A of their Forms 382. KSPS-TV and KHQ-TV

listed each other in Schedule A of their Forms 382, while neither station listed an NCA with KGPX. *See* FCC File Nos. BFREET-20050209ABG and BFRECT-20050208AHD.

KGPX operates on “singleton” NTSC channel 34 without a paired digital channel. Prior to the Form 382 filing deadline, Paxson sent a letter to KSPS-TV indicating its intention to elect to operate on Channel 43 after the digital transition, and asking whether KSPS-TV had any objection. A copy of the letter is attached as Exhibit A. KSPS-TV does not object to KGPX specifying Channel 43 for digital operation; however, KSPS-TV feels compelled to disclose that it does not believe Paxson’s letter constitutes an NCA.

In the *Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd. 18279, 18298 (2004) (at ¶ 45) (*Second DTV Periodic Review*), the Commission characterized NCAs as “channel swapping” arrangements. KSPS-TV has not agreed to swap channels with KGPX. Nor does it appear that any other stations Paxson listed as having entered an NCA with it has swapped Channel 43 for Paxson’s Channel 34. *Public Notice*, pp. 5-6. To the contrary, the only station in the group listed as part of KGPX’s purported NCA that has been allotted Channel 43 is KATU in Portland, Oregon, which has elected to keep Channel 43. *See* FCC File No. BFRECT-20050114AEU.

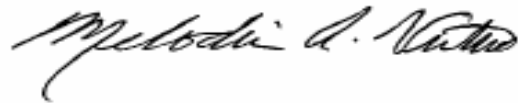
The *Second DTV Periodic Review* instructed that singletons “must elect to either (1) keep their in-core channel or (2) release their in-core channel in favor of being treated like a licensee with two out-of-core channels.” *Id.* at 18300 (¶ 49). If the latter were pursued, the singleton would need to wait until the Round Two elections to elect a

channel. *Id.* at 18303-04 (¶ 59). It appears that KGPX prematurely selected Channel 43 for digital operation in Round 1 when it should have waited for Round 2 elections.

In any event, KSPS-TV does not consider itself to be part of an NCA with KGPX. Paxson's letter, for which there was no consideration, does not fit the FCC's definition of an NCA.

Respectfully submitted,

SPOKANE SCHOOL DISTRICT #81



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March 15, 2005

EXHIBIT A

See Attached.

January 13, 2005

**VIA FEDERAL EXPRESS**

Mr. Claude Kistler  
General Manager  
KSPS-TV  
S. 3911 Regal Street  
Spokane, WA 99223

Re: KGPX-DT Channel Election


Dear Mr. Kistler:

As you may know, Paxson Spokane License, Inc. ("Paxson") is the FCC licensee of station KGPX(TV) (Spokane, Washington). KGPX(TV) broadcasts on NTSC Channel 34 but was not assigned a paired DTV channel. In the present round of the channel election process, Paxson wishes to elect Channel 43 for post-transition operation of the station. Election of an unassigned channel at this stage is permissible only pursuant to a negotiated channel arrangement. For KGPX(TV), Paxson does not seek use of a channel assigned to a local station. The FCC has said it will review the station's election for anti-competitive effects.

Accordingly, we hereby request that if you have an objection to KGPX(TV)'s election of Channel 43, please notify the undersigned using the attached form and returning it to me by fax or e-mail at your earliest convenience – but no later than Monday, January 24, 2005. Conversely, if you have no objection, we would appreciate it if you could memorialize this by indicating so on the enclosed form and returning it to me. Alternatively, you may take no action and we will presume there is no objection.

If you have any questions or concerns, please feel free to contact me. Thank you for your consideration.

Sincerely,



William L. Watson  
Secretary

### Acknowledgement of Channel Election

KGPX (TV) broadcasts on NTSC Channel 34 but was not assigned a paired DTV channel. Paxson believes post-transition operation of KGPX(TV) on Channel 43 will be aggregately preferable in terms of impact on other television stations. Election of an unassigned channel at this stage is permissible only pursuant to a negotiated channel arrangement. Because Paxson wishes to elect a channel unassigned to a local station, it does not anticipate this arrangement to have anti-competitive effects, but the FCC has said it will review stations' elections for such effects. Accordingly, by signing below, [ ] hereby acknowledges the foregoing and confirms the following:

- ☐ [ ] has no objection to the election of Channel 43 by KGPX(TV).
- ☐ [ ] objects to the election of Channel 43 by KGPX(TV) for the following reasons:

This acknowledgement is effective as of the date hereof.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Title (please print)

\_\_\_\_\_  
Date

## CERTIFICATE OF SERVICE

I, Yvette J. Graves, and employee of Garvey Schubert Barer, hereby certify that the foregoing Comment, filed electronically this same date, was sent via Express Mail this March 15, 2005, unless hand delivery is indicated, to the following as required by

*Public Notice*, DA 05-519, released March 1, 2005:

William L. Watson, Esq.  
Paxson Spokane License, Inc.  
Station KGBX(TV)  
601 Clearwater Park Road  
West Palm Beach, FL 33401 – 6233

King Broadcasting Company  
Stations KREM-TV & KGW(TV)  
400 South Record Street  
Dallas, TX 75202

Spokane Television, Inc.  
Station KXLY-TV  
500 West Boone Avenue  
Spokane, WA 99201

KHQ, Incorporated  
Station KHQ-TV  
P.O. Box 600  
Spokane, WA 99210 – 0600

Mountain Licenses, L.P.  
Station KAYU-TV  
2111 University Park Drive, Suite 650  
Okemos, MI 48864

Washington State University  
Station KWSU-TV  
P.O. Box 642530  
Pullman, WA 99164 – 2530

Pullman Broadcasting, Inc.  
Station KQUP(TV)  
#1 Shackford Drive, Suite 400  
Little Rock, AR 72211 - 2545

Fisher Broadcasting - Washington TV, L.L.C.  
Station KLEW-TV  
Fisher Broadcasting – Portland TV, L.L.C.  
Station KATU(TV)  
100 Fourth Avenue North, Suite 510  
Seattle, WA 98101

State Board of Education, State of Idaho  
Stations KUID-TV & KCDT  
1455 North Orchard  
Boise, ID 83706

National Minority T.V., Inc.  
Station KNMT  
P.O. Box 53575  
Irvine, CA 92619 – 3575

Emmis Television License, LLC  
Station KOIN(TV)  
3500 W Olive Ave., Suite 1450  
Burbank, CA 91505 – 5542

Apple Valley Broadcasting, Inc.  
Station KVEW(TV)  
1610 South 24th Avenue  
Yakima, WA 98909 – 1208

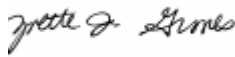
North Pacific International Television, Inc.  
Station KHCN(TV)  
100 Fourth Avenue, Suite 660/KHCN  
Seattle, WA 98109

Puget Sound Educational TV, Inc.  
Station KWDC(TV)  
P.O. Box 612066  
Dallas, TX 75261

KSKN Television, Inc.  
Station KSKN(TV)  
c/o Belo Corp.,  
400 South Record Street, 16th Floor  
Dallas, TX 75202

KCTS Television  
Station KCTS(TV)  
401 Mercer Street  
Seattle, WA 98109

\*Nazifa Sawez, Esq.  
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Room 2-A726  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554



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Yvette J. Graves

\*By Hand